



Freedom of Expression as Threat to National Security: Self-Determination, Radio Biafra and the Political Space in Nigeria

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Abstract:

A wave of renewed agitation for the creation of the sovereign state of Biafra has gained momentum and is sweeping across the south-east of Nigeria. The Independent People of Biafra (IPOB) is championing the cause. This resuscitated agitation for a sovereign state of Biafra takes a new dimension with the setting up of Radio Biafra and many other internet fora carrying on the struggle for the break-up of the Federal Republic of Nigeria. Unlike other initiatives directed towards achieving the same objective, the current attempt seems to have achieved greater notoriety and succeeded in galvanizing certain segments of the Igbo community who feel victimized and alienated by the current arrangements in Nigeria into a renewed hope and zeal for the secession of Biafra from Nigeria. The arrow-head of the group is Nnamdi Kanu who, among other things, has been accused of advocating violence in order to obtain independence. COMMENT: For those interested, we recommend the novel by Nigerian author Adichie: "Die Hälfte der Sonne" (in German) "Half of a Yellow Sun" (in English)

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Freedom of Expression as Threat to National Security: Self-Determination, Radio Biafra and the Political Space in Nigeria

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Abstract

A wave of renewed agitation for the creation of the sovereign state of Biafra has gained momentum and is sweeping across the south-east of Nigeria. The Independent People of Biafra (IPOB) is championing the cause. This resuscitated agitation for a sovereign state of Biafra takes a new dimension with the setting up of Radio Biafra and many other internet fora carrying on the struggle for the break-up of the Federal Republic of Nigeria. Unlike other initiatives directed towards achieving the same objective, the current attempt seems to have achieved greater notoriety and succeeded in galvanising certain segments of the Igbo community who feel victimised and alienated by the current arrangements in Nigeria into a renewed hope and zeal for the secession of Biafra from Nigeria. The arrow-head of the group is Nnamdi Kanu who, among other things, has been accused of advocating violence in order to obtain independence. The



Nigerian government has always maintained that Nigeria's unity is a priority for the country. The Nigerian Constitution is unequivocal in its exclusion of the possibility of secession when it provides in its section 2(1) "Nigeria is one indivisible and indissoluble sovereign state to be known by the name of the Federal Republic of Nigeria". However, as absolute as that section may seem, it does not rule out the idea of negotiations and lobbying between the component units in the federation for an amendment of its provisions. It is in this light that the paper, which includes historical and descriptive analyses, seeks to answer the following questions: What triggered the recent surge of agitation for Biafra independence? Does limiting the means of dissemination and punishing the actors address the underlying grievances that ensure its popularity? Is the new agitation a plot by elites of the eastern extraction to create greater political space for themselves under President Buhari? Will a referendum be necessary to determine the fate of Biafra? To what extent does the Constitution permit the President and the National Assembly to limit civil liberties for the sake of national security?

Key Words: Self-Determination, National Security, Radio Biafra, Political Space

Introduction

Nigeria is a postcolonial multi-ethnic, multi-lingual and multi-religious state grappling with the crisis of pluralism and diversity. One of the major problems confronting the Nigerian state since its independence from the British colonial powers in 1960 has been that of nation-building or what is known in the extant literature as the 'national question'. Central to the national question has been how to weave together Nigeria's divergent peoples into a coherent whole to form a nation-state. Indeed, with almost three decades of continuous living together and sharing the same 'nationality' (Nigerian citizenship), Nigeria's divergent ethno-cultural-religious groupings keep treating and seeing one another as *strange bedfellows* who were forced together through the circumstances of colonial rule. In other words, Nigeria's diverse complexity could be traced to colonial rule that unceremoniously and forcefully hemmed into a modern state peoples of not just distinct customs, languages, myth of origins and socio-cultural developments, but also vary in size, endowment of natural and human resources, and the power/influence they exert on the state and its institutions (Oladeji 2012: 1).

Indeed, prior to colonial rule, the territory that would later become Nigeria was ruled as independent empire-states under different ethno-traditional rulers. However, without consultation with the *indigenous peoples* or their traditional leaders, the colonialists clobbered these divergent groups into a single sovereign state. What this colonial act of state creation did was to immediately turn hitherto homogenous empires/kingdoms with peculiar histories of 'state



formation' into heterogeneous State. Thus, given the anomaly inherent in its creation and the colonial and post-colonial state policies, the Nigerian state, instead of nurturing national harmony and sameness, keep experiencing sub-nationalist agitations along ethno-cultural fault lines (Oladeji, 2017). To be sure, over the post-independence period, the Nigerian state has been labouring under the weight of complex crises, paramount among which is how to ensure equitable distribution of its resources and thereby allay the fears of domination/marginalization among its various ethno-regional constituencies.

However, given the centralist posture of the Nigerian administrative structure, which tends to put virtually all the state's resources in the hands of the central state, there has been heightened, instead of diminished, inter-ethnic and inter-regional suspicion in Nigeria. What this does is to make the central state very attractive for political control and contestation for its control a matter of ethnic/regional rivalries. This is the case because any ethnic or regional group that controls the centre is believed to control the resources of the state, which it may use for ethno-regional limited advantages. Thus, any group that could not or believed to have been barred from controlling the central state will assume a marginalised or disadvantaged position against other ethnic groups. Little wonder that the postcolonial Nigerian state has become a hegemonic vehicle for contending ethno-regional groups. Indeed, because of lack or limited autonomy from competing ethnic groups, the state becomes the core contested terrain; the deadly theatre of ethno-regional conflicts over which ethnic or coalitions of ethnic groups should control the Nigerian state and its resources (Oladeji, 2017).

Thus, over its post-independence period, Nigeria has been assailed by ethno-regional rivalries, which in most cases fuel sub-nationalist agitations either for inclusiveness/recognition within the existing state or a demand for the abrogation of the state to pave way for the emergence of new ones. The effect of this has been the emergence of self-determination ethno-regional groups (ethnic militancy) carrying out protests (at times taking up arms against the state) in attempts to redress the marginalization of a particular ethnic group.

While the history of Nigeria is littered with the rise and fall of ethno-regional groups, there has been a dramatic upsurge in the number of the so-called *self-determination* ethnic militia groups since 1999 when the country re-democratised. The most prominent of these groups include the Egbesu Boys of Africa (EBA), the Niger Delta Volunteer Force (NDPVF), the Movement for the Emancipation of Niger Delta (MEND), the O'odua Peoples' Congress (OPC), the Arewa Peoples' Congress (APC), the Movement for the Actualisation of the Sovereign State of Biafra (MASSOB), Biafra Zionist Movement (BZM) and more recently, the Niger Delta Avengers (NDA) and the Indigenous People of Biafra (IPOB). This upsurge could be linked with the fact that these ethno regional groups seem to believe that their leaders are capable of rational reasoning and thus believe the idea of the autonomy of such leaders.



Consequently, these groups who purportedly seek ethno-regional liberalization and/or protection, become hegemonic seeking groups “contesting not just the political space and the dividends from democracy, but also the social and economic spaces as part of the liberalization of the political environment” (Agbu, 2002: 5). However, the problem is not limited to Nigeria as it has assumed a global problem, especially since the collapse of the Soviet Union with “minority religious, ethnic and cultural communities, hitherto dormant, are reawakening and vying for formal recognition” (Macklem, 2006: 489). To be sure and as argued by Shehadi (1993) the drive towards ethnic national self-determination, in whatever form it manifest itself, appears to be the greatest challenge facing the international community from the 1990s onwards. Indeed, Vickers (2000) contends that we live today in an ‘era of militant ethnicity’ with its grave social, economic, political and human costs. Thus, the challenge today has to do with the demands of various ethno-cultural-religious groups for formal recognition, which in most cases involve territorial autonomy from the parent states and which are increasingly presented as a matter of right (Macklem, 2006).

Thus, over the turn of millennium a major legal/political crisis confronting most democracies has been how best to cope with the problem of diversity and/or self-determination movements seeking to break away from existing states. This problem has once again brought to the fore the debates on ‘militant democracy’. The debates centre on whether or not it is ideal/legal for a (democratic) state to resort to militant or repressive strategies to combat threats to its corporate existence and/or democratic future. Militant democracy was coined in 1937 by Karl Lowenstein and refers to ‘a constitutional democracy authorised to protect civil and political freedom by preemptively restricting the exercise of such freedoms’ (Lowenstein, 1937 cited in Macklem, 2006: 488). While militant democracy manifests in antiterrorism legislations initiated by most states in the aftermath of the September 11 terrorist attacks in US, it is more visible in hate-speech legislation, the banning of certain political parties, restrictions on mass demonstrations, and the criminalization of certain ethno-political/ideological groups/organizations (Macklem, 2006).

While militant democracy is usually introduced as a mean of combating extremist political/ideological agendas that may threaten peace, security and democratic order, these typically interfere with the exercise of fundamental human rights like freedom of opinion, expression, conscience/religion and association, which could be seen as the oxygen upon which democracy thrives. That is, there is the likelihood of the provisions of militant democracy being counterproductive. For example, instead of protecting democracy against its supposed enemies, militant democracy may provide a means for those empowered to make the relevant decisions to arbitrarily exclude an indeterminately expansive range of political competitors from the democratic game, thereby restricting the democratic nature of the regime and therefore effectively ‘doing the work of the enemies of democracy for them’ (Kirshner, 2014).



Thus, given the forgoing, this paper seeks to examine the implications of freedom of expression or self-determination movement on national security and/or democratic survival using the agitations of IPOB in Nigeria, especially the establishment of Radio Biafra, as its analytical handle. The paper employs historical and descriptive analyses and relies mainly on secondary data. The paper therefore historicises the issues of ethnic militancy and Biafra agitation in Nigeria and examines the emergence and proscription of radio Biafra and the legal implication for freedom of speech in Nigeria. The paper also investigates the politics of self-determination and secession bids in Nigeria. To do this, the paper grapples with the following questions: What triggered the recent surge of agitation for Biafra independence? Does limiting the means of dissemination and punishing the actors address the underlying grievances that ensure its popularity? Is the new agitation a plot by elites of the eastern extraction to create greater political space for themselves under President Buhari? Will a referendum be necessary to determine the fate of Biafra? To what extent does the Constitution permit the President and the National Assembly to limit civil liberties for the sake of national security?

Background to Ethnic Militancy and Biafra Agitation

As noted before, the Nigerian state emerged a ‘marriage of convenience’ when the British colonialists forced the many previously autonomous and diverse kingdoms into together. However, when the British colonialists forged Nigeria out of the disparate ‘empire states’, their intention was not to create a stable/coherent ‘nation-state’, it was rather to isolate one of their spheres of influence from those of other ‘scrambling’ European powers and to satisfy their gluttonous extractive tendencies at the expense of the colony and the *indigenous peoples* (Oladeji, 2017). To execute the colonial mandate of resource extraction, the colonialists, unlike what was the situation under the ‘pre-colonial traditional states’ when power and resources were highly dispersed, transferred the ownership and control of resources from the people to the centralised colonial state (Ake, 1985).

Thus, as argued before, the centralization of state’s resources readily turns the state into a ‘political kingdom’ worth struggling to capture and rule, since getting it, all other things – power, security, wealth, good life – shall be added. No wonder, political contestations – i.e. elections – soon assumed inter-group and/or inter-ethnic confrontations/wars, because any racial group or alliance of racial groups that control the state also control so much more (Oladeji, 2017). Flowing on from this, the processes of the post-independence state are defined by the struggle for ethnic appropriation, consolidation and hegemonic control of the state (Araoye 2012: 12). The negative fallout from the situation has not only promoted disunity and mistrust among Nigerians but has manifested in the resentful disposition towards the Nigerian state exhibited by the nationalities that feel disadvantaged and aggrieved remaining in Nigeria. To this end, separatist agitations, which have been a regular feature of Nigerian politics, remain a veritable tool for the



expression of discontent with the Nigerian state and a platform for demanding adequate political accommodation (Alumona, Azom & Iloh, n.d).

Indeed, it is within the above context that the separatist agitations among the Igbo ethnic group in Southeast, Nigeria can be located. The extant literature is rich with narratives on the issue of Biafran separatist movement, which dates back to the colonial period. For instance, Chief Micheal Opara, the then Premier of Eastern Region, was the first to openly call for the secession of the region from Nigeria in December 1964 due to the circumstances surrounding that year's federal elections. However, the first major frontal challenge to the corporate existence of Nigeria would come from Lt. Col. Emeka Odumegwu Ojukwu, the then military leader of Eastern Region, in 1967 when he declared the region as independent state of Biafra. This declaration plunged Nigeria into three years of civil war to force Biafra back into the Nigerian state. However, since the war ended in 1970, there remains persistence of perception and feeling of injustice, marginalization and persecution among the Igbos (Ezemenaka & Prouza, 2016; Awofeso, 2017).

Thus, because of the persistent feelings of marginalisation and the belief that fundamental issues for which the civil war was fought have not been addressed, there have been reinvigorated agitations for the sovereign state of Biafra since 1999 when Nigeria returned to a democratic order. The new agitation was championed by MASSOB under the leadership of Ralph Uwazuruike with dominant strategy of non-violence to actualize secession of Biafra from Nigeria. Despite the non-violent posture of MASSOB, its members frequently had confrontations with the security agencies and its leader was on many occasions arrested and released (Badmus, 2006). While a combination of state repression and internal dissent weakened MASSOB and introduced deep cracks in its organization, this paved the way for the emergence of IPOB to continue the agitation, albeit, more vigorously (Ibeanu, Orji & Iwuamadi, 2016). While IPOB enjoys widespread support among Igbo youths from inception, its activities was greatly influenced by the web-based Radio Biafra (RB). However, the arrest in October 19, 2015 of Nnamdi Kanu, the leader of IPOB and director of RB on charges of sedition, ethnic incitement and treasonable felony would result in upsurge of violent protests and confrontations between IPOB members and Nigerian security agencies. Indeed, the IPOB and RB represent the most high-profile and radical movement for a separate State of Biafra that currently exists (Ibeanu, Orji & Iwuamadi, 2016).

In the main, different explanations have been offered for the emergence of ethnic militancy and the persistence of Biafra separatist agitations. The first school locates the crisis within the wider ethnic division and competition, which marks the hallmark of Nigerian politics. For instance, Jibrin (2015) argues that the current agitation for the sovereign State of Biafra is being championed by Igbo masses that are frustrated by the failure of Igbo elite to capture central



power. He contends that “due to the failure of the elite, the Igbo lumpen have seized the initiative of following the path of disintegration” (ibid). However, while Jibrin see the masses as the main drivers of the agitation, others blame the agitation on the elite (Adetula, 2015; Okonta, 2012; Owen, 2016). For example, Owen (2016) states that the recent agitations for Biafra represent a bid for re-inclusion by political actors excluded from power. According to him, the surge in Biafra separatism is engineered by many career politicians from the South East who feel relegated from many juicy federal positions due to the defeat of President Goodluck Jonathan of the People’s Democratic Party (PDP) whom the region offered vast support during the 2015 presidential election (Owen, 2016).

The second school argues that the recurrent agitation for Biafra could be explained from the standpoint of economic frustration. This school sees the current agitation for Biafra as a struggle by young people expressing resentment over their material condition – a condition which they face because of broader contradictions of the Nigerian political economy, but which they perceive as ethnic exclusion (Ibeanu, 2015). The main thrust of the arguments of this school of thought is that Biafra agitation is a political expression of economic frustrations by the Igbo youths, who saw their economic misfortunes as resulting from the marginalization of the South East in national economic life (Ibeanu, Orji & Iwuamadi, 2016).

The third strand of analysis for the persistence of Biafra agitations blames it on the nature and character of state-society relations in Nigeria – the repressive posture of the state or the opening up of the Nigerian political space (Ukiwo, 2009; Onuoha, 2011). According to Ukiwo (2009), the resurgent Biafra separatism is a response to repressive state violence. On the other hand, Onuoha (2011) contends that the re-emergence of Biafra agitation could be explained as resulting from the opening up of Nigeria’s political space following the transition to democracy. He argues that the post-1999 Nigerian political space is characterised by confrontation between state-led nationalism and state-seeking nationalism being championed by non-state actors. In the contest, the state-seeking nationalists appear to be losing out to the hegemonic state-led nationalist project, prompting a change of strategy by ethno-nationalist groups and intensification of the demands for alternative spaces and parallel structures of power (Onuoha, 2011). The result of these developments is increase in separatist agitation.

Furthermore, the fourth reason adduced for the upsurge in the Biafra agitation is the collective victimization feelings thesis put forward by Ibeanu *et al*. According to Ibeanu *et al* (2016), the feelings of collective victimization among groups in Nigeria have wider connection with the broader characteristics of the Nigerian state, particularly its tendency to be contested at the margins. They contend that this is not unconnected with the construction of Nigeria by colonialism as a state to be guaranteed by ethno-elite pacts. Thus, the inability of Igbo elite to clinch the political leadership of Nigeria, especially since 1999 when democracy was re-



introduced, has increased the tendency for average Igbo to have a feeling of being victim of political marginalization. That is, the victim mentality readily propels most Igbo to blame other Nigerians for their political and economic predicaments rather than looking at the ways in which the Igbo as a community or the Igbo elite as a group might have contributed to or failed to ameliorate the situation. Igbos have responded to the perceived victimization in a varied ways. According to Ibeanu *et al*:

...the Igbo elite have historically responded to the perceived victimization of the group in two principal ways: by advocating for either more inclusion or for more separation. The inclusivist approach represents the attitude of the Igbo elite who see greater political, economic and social inclusion of the group as the most effective way of addressing the group's victimization. By contrast, radical-separatists hold that a sovereign, independent state of Biafra is the only solution to the victimization of the Igbo. While separatists agree on secession as the only solution to Igbo victimization, they differ on how this is to be achieved. They propound three possible routes to sovereignty namely, armed secession, civil disobedience and more lately, referendum (Ibeanu *et al*, 2016: 19-24).

While, apart from the civil war fought between 1967 and 1970, most agitations for the secession of Biafra from Nigeria have adopted peaceful approach, the IPOB tends to believe in violence despite the non-violent strategy its leader, Nnamdi Kanu, used to preach (Awofeso, 2017). As noted before, an important approach adopted by IPOB is the use of media propaganda through its media wing, Radio Biafra. Indeed, the radio represents the most high-profile and radical of a number of diaspora-based movements in alliance with street-based groups (Owen, 2016). Thus, before long, Igbo youths across the globe got sensitized and keyed into the philosophy of Biafra. IPOB has also called for a referendum in the Igbo-speaking states to determine the choice of the people: whether to remain in Nigeria or to form a separate and independent State of Biafra.

However, the Nigerian government has forcefully resisted the antics of IPOB. It has at several fora re-stated its resolve to keep Nigeria as a united and indivisible state. Indeed, the Nigerian 1999 Constitution (as amended) is unequivocal in its exclusion of the possibility of secession when it provides in its section 2(1) that "Nigeria is one indivisible and indissoluble sovereign state to be known by the name of the Federal Republic of Nigeria". Thus, to maintain the sanctity of the Nigerian state and uphold its constitution, the Nigerian state has met the IPOB agitators with brutal force by disrupting their rallies with security agencies. Indeed, many of IPOB leaders, Nnamdi Kanu being most prominent, have been arrested and tried for treasonable felony. While many such leaders are still in detention, Kanu's whereabouts remain elusive since the clash between IPOB members and Nigerian army on September 14, 2017 during a military action in Abia State code named *Operation Python Dance*. Apart from this, the government has abrogated the Radio Biafra and declared IPOB a terrorist group. This has attracted the attention



of the international community and right groups and has raised questions about human rights in Nigeria, especially freedom of speech and freedom of peaceful assembly/association.

Radio Biafra, Freedom of Speech and Legal Perspectives

Over the years, the issues of freedom of speech and national security have attracted scholarly debates. Central to these debates have been the questions – when or how does freedom of speech constitute a threat to the security of a state? Or how can a state control or limit freedom of speech so as to stop it from becoming a security issue? Who should decide limits to freedom of speech and what types of speech should be curtailed? However, there has not been a straightforward answer to these questions as there have been divergent opinions as there are scholars seeking to understand the challenges of freedom of speech and national security. To be sure, freedom of speech and national security are often pulling in opposite directions. While governments, especially those that [feel] threatened by both internal and external violence, are quick to maintain that unguarded freedom of speech or assembly can undermine the security and wellbeing of law abiding citizens, human rights advocates argue that suppression of speech and peaceful assembly on national security ground could pave the way for some of the worst human rights violations, subversions of democracy, and in its own constitutes the greatest threat to peace and security (Coliver, 1999).

Furthermore, it is a universal knowledge that democracy thrives on the oxygen of pluralism of ideas. This makes freedom of expression one of the cardinal hallmarks of democratic credentials of state and a fundamental human right of humongous importance. Indeed, it is the bedrock of human dignity. However, it is not an absolute right and little wonder that every democracy has developed some mechanisms of limiting free speech. To be sure, in the aftermath of the 9/11 terrorist attacks US and the rise of Daesh in 2015 responsible for terrorist attacks in Iraq, Syria, France, Turkey and Tunisia, governments have adopted additional anti-terrorism measures, many of which resulted in restrictions of freedom of expression (Callamard, 2015). What this does is to promote ‘militant democracy’ that we alluded to before. That is, the end of preserving itself will justify whatever means adopted by a democracy even if such means require limiting freedom of expression and prohibiting political activities, associations and movements that threaten democracy.

The foregoing analysis prepares a fundamental basis for examining the legal perspectives to the prohibition of the activities of IPOB, especially its Radio Biafra, by the Nigerian government. As argued before, IPOB, as a self-determination group agitating for the sovereign state of Biafra, have adopted as its main strategy media propaganda through the Radio Biafra. However, the launching and activities of Radio Biafra have thrown up serious legal logjam over issues of freedom of expression, self-determination and national security in Nigeria pitting the Nigerian



state against IPOB and some human rights advocacy groups. The protagonists of IPOB's rights to self-determination are quick to point to some sections of the Nigerian Constitutions, especially chapter 4 of the Constitution, which provide for Fundamental Rights most importantly right freedom of expression, right to peaceful assembly, right to freedom of movement and right to freedom of discrimination (Sections 39-42, 1999 Nigerian Constitution, as amended). Specifically, Section 39 (1&2) of the Constitution provides as follows:

Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference. Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions (FRN, 1999).

Similarly, section 40(3) provides that "every person shall be entitled to assemble freely and associate with other persons in particular he may form or belong to any ... association for the protection of his interests". The Constitution in section 42 also provides that no Nigerian for reasons of ethnic group, place of birth, sex, religion or political opinion shall be discriminated against.

Furthermore, the IPOB supporters have pointed to rights to freedom of expression and self determination in international laws and treaties to which Nigeria is a signatory. For example, Article 19 of the *Universal Declaration on Human Rights* (UDHR) and Article 19(2) of *International Covenant on Civil and Political Rights* (ICCPR) guarantee the right to freedom of expression. Indeed, the later provides that:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice (UN General Assembly Resolution 2200A (XXI), 16 December 1966).

In the same vein, in the case *Media Rights and Others v. Nigeria* the African Commission on Human and Peoples' Rights in respect of Article 9 of Banjul Charter held that:

This article reflects the fact that freedom of expression is a basic human right, vital to an individual's personal development, his political consciousness, and participation in the conduct of public affairs in his country. The problem at hand is whether the decrees requiring the registration of newspapers, and prohibiting many of them, violate this article (ACHPR, 1998).

However, freedom of speech law is not cast in iron and stone anywhere in the world. That is, freedom of expression is not absolute and every system of law provides for some limitations on it (Mendel, n.d). To be sure, international human rights law recognizes that sometimes it is necessary to limit individual rights to protect national security or respond to situations of public emergency (Callamard, 2015). For instance, under Article 4 of the ICCPR, in a time of "public



emergency which threatens the life of the nation”, a state may take measures derogating from their obligations under the Covenant to the extent strictly required by the exigencies of the situation”. According to Callamard (ibid), freedom of expression may be one of the freedoms, which may be affected in that way. Similarly, Article 20(2) of the ICCPR allows a state to prohibit by law any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Also, Article 4(a) of the 1965 *International Convention on the Elimination of All Forms of Racial Discrimination* permits a state to make “all dissemination of ideas based on racial superiority or hatred a punishable offence” (Nonso, 2015). Moreover, the Article 1 of the *United Nations Security Council Resolution 1624* of 2005 requires states to prohibit incitement to commit a terrorist act (Callamard, 2015).

While Nigeria could not be said to have domesticated much of these international laws, the Nigerian legal systems criminalises certain acts, which it considers injurious to its national security. Paramount on the list of such acts is the offences of sedition and treason, which is the ground upon which Nigerian government has proscribed IPOB and Radio Biafra and declared the group as a terrorist group. Indeed as argued by Nonso (2015) many of the Radio Biafra broadcasts raise the presumption that hate speech and incitement to genocide is being propagated through the Radio. However, the Nigerian Criminal Code in Section 51 prohibits doing or attempting to do any act with seditious intentions. Section 50(2) of the Criminal Code defines a seditious intention as

...an intention; to bring into hatred or contempt or to excite disaffection against the person of the president, or of the governor of a state or the government of the federation or administration of justice; to excite the citizens or other inhabitants of Nigeria to attempt to procure the alteration otherwise than by lawful means of any matter in Nigeria as by law established; or to raise discontent or disaffection amongst the citizen or other inhabitants of Nigeria; to promote feelings of ill-will and hostility between the different classes of the population of Nigeria (Federal Republic of Nigeria, 2004).

Furthermore, section 37 of the Criminal Code defines treason as “levying war against the state, in order to intimidate or overawe the president or the governor of a state or conspiring with any person, either within or without Nigeria”. This amounts to treason if it is committed by a citizen of Nigeria. On the other hand, levying war is defined as “the assembling of a body of men for the purpose of effecting by force a treasonable object; and all who perform any part however minute, or however remote from the scene of action, and who are leagued in the general conspiracy”. Section 41 describes as treasonable an intention to levy war against Nigeria in order to force or constrain or compel the President to change his measures or counsel... It is an offence punishable by death. This definition of treason under Criminal code seems to negate the right of a group or individual of self-determination under International Law.

**Self- Determination and Secession Bids in Nigeria: Focus on IPOB Activities**

The development of self-determination in international law is based on moral considerations on justice and political considerations resulting from political struggles (Falk, 2000). The Declaration states that all peoples have the right to self-determination and that by virtue of that right they shall freely determine their political status and freely pursue their economic, social and cultural development (Tomuschat, 1993). IPOB supporters exercised this right as a way to end years of repression and human rights violations by the majority ethnic group (in this case the central government) in Nigeria. In trying to exercise this constitutive power, IPOB supporters together with their leaders resulted to secession. This has led to outcry of detachment of igbo territory from an Nigeria with the aim of creating a new state on their detached territory (Pavkovic & Radan, 2011)

According to Coggins (2018) Secessionists need to convince both domestic and international audiences of the need for a new state by resorting to normative and practical appeals. The support of very powerful states is crucial when it comes to formal diplomatic recognition and statehood will not happen unless others are willing to support them. With this, IPOB put together the best story possible in order to mobilise their supporters, convince the host state and persuade the international community of the validity of their goals. Besides having compelling arguments about norms, instruments and principles, their ultimately desire is to have external legitimacy in the form of international recognition. Therefore, convincing the outside world that Nigeria is repressive was a key step towards getting that cascade of recognition. The key strategy had been to define a national problem that could only be practically resolved with independent statehood. This indeed was established when several peaceful protesters were reportedly killed in clashes with security forces in Onitsha, Aba, Port Harcourt, Owerri and Asaba, “opening fire on peaceful IPOB supporters and bystanders who clearly posed no threat to anyone is an outrageous use of unnecessary and excessive force and resulted in multiple deaths and injuries” (Annesty, 2016).

However, Krasner (1999) opined that *realpolitik*, not ideals, determine the success of pro-independence movements. The arguments that allow the secessionist movement to grow its support base (e.g., national grievances and democratic character of secession) do not guarantee international support from other states that inevitably pursue their own national interests (Krasner, 1999). Meanwhile, in order for any new country to gain membership of the international community – every secessionist movement’s ultimate goal – it must secure the recognition of an overwhelming majority of its peers and, especially, the powerful and influential among them (Coggin, 2018). In other words, domestic support for independence is a prerequisite; hence, the use of Radio Biafra. Although his communication method raises



concerns, it has made significant impact on Nigerian political landscape and has earned him millions of admirers as well as enemies (Chikwendu, 2017).

In May 2017, to commemorate 50 years since the former Eastern Region under Odumegwu Ojukwu embarked on a secessionist move that culminated with the declaration of Biafra, pro-Biafra groups, the Movement for the Actualization of the Sovereign State of Biafra, and the Indigenous People of Biafra, ordered the closure of markets, and restriction of movement, to honour the memory of Biafra war heroes, and slain activists. In its 2015 edition, it recorded some success. According to reports from Onitsha, Nsukka, Owerri, Aba, Enugu, Asaba and other towns in the zones, young men and women were daily flocking to join the protesters, who embarked on peaceful protest rallies across cities in Igboland and the Niger Delta, the areas they described as part and parcel of the proposed Biafra Republic. To make matters more worrisome, the agitators were daily winning over sympathizers towards their cause.

The crisis heightened as members of the Indigenous People of Biafra (IPOB) shut down markets in Aba, Abia State, in continuation of its three-day one million protest march calling for the release of their detained leader and Director, Radio Biafra, Nnamdi Kanu. The protesters in several groups, with each numbering no fewer than 5,000, marched through Azikiwe, Cemetery, Asa, Faulks, Aba-Owerri and Osisioma Ngwa from where they forcefully closed all the markets in the city (Odufowokan, 2015).

The agitators view Nigeria's present federal arrangement as a "forced and flawed marriage", a view shared by several other groups. The fact that the protesters are predominantly un- and under-employed youths reflects widespread economic frustration. The agitation could grow worse, if this is not addressed. At the same time, the agitators' use of ultimatums, intimidation and threats of violence highlight Nigeria's shallow democratic culture (Obasi, 2015).

In 2013, Bilie Human Rights Initiative and Biafra Alliance (Australia) presented a joint petition and summary of a court case they instituted against the Nigerian Government to the Australian government. In a meeting organised by Biafra Alliance (Australia), in conjunction with Radio Biafra, London, in Canberra, Australia recently, the groups said the petition was part of the sensitisation programme aimed at highlighting the sufferings of Southeastern Nigerians at home. It was gathered that the pro-Biafran groups were represented by four-man delegation led by Nnamdi Kanu, Director of Radio Biafra, London, who travelled from United Kingdom to Australia; Mazi Okezie Oguh, the leader of Biafra Alliance (Australia) and two others. The Australian government, it was learnt, was represented by high-ranking officials in the Department of Foreign Affairs and Trade, situated at the R.G. Casey Building, on John McEwen Crescent Barton, Canberra, who received the written submission (Odufowokan, 2015).



The production of Biafra currency, flags, passports and emblems are the symbols that say a lot about the IPOB activities. They give reasons to take the people more seriously and resolve the issue while it has not gone out of hand. Similarly, some members of the Indigenous people of Biafra, (IPOB), continued to defy the federal government by dressing and parading themselves as the security outfit of Biafra. The security arm of the Biafra struggle was launched by Nnamdi Kanu, under the name 'Biafra Security Services' (BSS). IPOB stated that the intention was to gather intelligence and ensure that criminal elements did not compromise the safety and welfare of people residing in Biafra land.

In September 2017, the Federal High Court in Abuja granted an order filed by the Attorney-General of the Federation (AGF), Abubakar Malami, declaring the activities of the Indigenous People of Biafra (IPOB) as "acts of terrorism and illegality." The order also proscribed the existence of IPOB throughout Nigeria, with particular attention paid to the South-East and South-South regions. The Federal Government, through the Minister of Information Lai Mohammed, Senior Special Assistant to the President, Garba Shehu and others laboured to justify the IPOB's tag as a terrorist group. They accused IPOB of so many things including mounting road blocks, burning a Police Station, killing a Police man, using stones, molotov cocktails (a simple incendiary weapon variously described as bottle bomb, petrol bomb, fire bomb, benzene torch, etc), machetes and broken bottles, possessing own flag, printing own currency, extorting money from innocent citizens, etc.

The Politics of Self-Determination and the Impact of Radio Biafra

Radio Biafra is very symbolic. Radio Biafra was the name of the national radio station of the defunct Biafran state, and it operated from 1967 to 1970. Radio Biafra was used to portray the cause of IPOB as a just one, combatting some form of national injustice. To draw the attention of the Nigerian government, the director of Radio Biafra and self-proclaimed leader of the Indigenous People of Biafra, Mr. Nnamdi Kanu, decided to use provocative rhetoric and expressions, some of which are considered to be hate speech and incitement to violence and war. He continuously aired broadcasts that portrayed Nigeria as a zoo and Nigerians as animals without rationality. The banner of his radio's Facebook page and website read: "The zoo called Nigeria." He called for the supply of arms and ammunitions to wage war against the northern Hausa-Fulani people if they oppose to the independence of Biafra, stating that this time, Biafra will defeat Nigeria in war. The radio ended up as a tool for spreading hate, falsehoods and unnecessary propaganda.

Interestingly, the new agitation began in the diaspora, in the United Kingdom where Kanu is a citizen, through Radio Biafra. Using easily accessible social media platforms and broadcast technology, IPOB was able to reach thousands of Igbos and non-Igbos across Nigeria



and the world (Adunbi, 2017). Negative emotions have driven the conversation around Biafra. A conglomeration of youths from the North raised the decibel of negativism with their pronouncement on June 6, 2017, asking Igbos to quit Northern Nigeria. As with the New Biafra, the tone and tenor of their remarks were combative and filled with the two Hs of hate and hubris. They matched and exceeded Kanu and his Radio Biafra in the quantum and vehemence of their invectives and hatred of the Igbo (Nwakanma, 2017).

Radio, as a modern communication technology, has played a revolutionary role in propaganda wars. Governments and revolutionaries find it indispensable because of its advantage in disseminating messages quickly across national borders (Omaka, 2017). Indeed, history has proved that it is near impossible to instigate widespread rebellion or upheaval without some sort of propaganda machine or media. In Nazi Germany, radio was the tool of choice for Hitler and Goebbels and Kanu put it to similar use. Kanu used Radio Biafra to spread a deeply sectarian and militant message, as he put it "... Biafra or Death", often referring to Nigeria as a 'zoo' that was destined to go up in flames (Akande, 2017). In 2014, the station's existence became public knowledge and in the months before the presidential elections, Nigeria's primary broadcasting agencies tried to pull down its transmission, with little success. Arrests were made in 2015; three members of IPOB, David Nwawusi, Benjamin Madubugwu and Chidiebere Onwudiwe were detained at various times during the year for connecting Radio Biafra transmitters to Ericsson masts in eastern states (Akande, 2017).

On a daily basis, the radio was winning many Southern, Nigerian admirers. According to a random survey conducted by Salkida and Edwin (2015), an increasing number of traders, men and women in villages, schools, and commuter buses tuned to the 97.6 band width. In Aba, Abia State, the radio's audience was also growing steadily among young people. With a warped history of the causes and effects of the 1967 Biafran Civil War, many unsuspecting listeners were spellbound as the voice of "director" resonated over the airwaves with ceaseless histrionics. With his commentaries on a wide range of subjects all geared towards the need for the burdened southern region to secede from the north and "the hypocrite southwest," he seemed tireless (Salkida and Edwin, 2015).

IPOB draws its members and sympathisers from the teeming ranks of young ethnic Igbos within and outside the country. Fuelling the disenchantment is the obvious, longstanding neglect of a region that has long proved itself an enterprising and inventive one (Ogunlesi, 2015). The response of the federal government through the regulatory agency the National Broadcasting Commission (NBC) to the Radio Biafra menace has been tepid. The Nigerian government has always maintained that Nigeria's unity is a priority for the country. The Minister of Information and Culture, Lai Mohammed, raised the stakes in the national discourse with his revelation that IPOB was being used by a coalition of politically-disgruntled treasury looters. The minister said



at an online publishers' forum that IPOB was a contraption being used to destabilise the Muhammadu Buhari administration:

We must warn the nation against IPOB's next line of action, which is to externalise their lies and propaganda. Now they are writing to the governments and the national parliaments of some Western nations to give the impression that they are victims of an ethno-sectarian violence orchestrated by the government, hence they need protection (The Nigerian Expression, 2017).

However, as observed by Nagarajan (2015), it is not coincidence that this has been taking place since Muhammadu Buhari was announced the winner of the March presidential elections. Accusations of his activities as a soldier during the Biafran Civil War (denied by Buhari himself), the reaction towards power as represented by the office of the presidency transferring from 'their brother' to a Northern Fulani man and fears of a plan to 'Islamise' Nigeria are feeding this dynamic. The election in 2015 of Muhammad Buhari, considered a member of the northern elite, further heightened the agitation for self-determination or secession by various groups from the south, IPOB in the southeast and Niger Delta Avengers in the south-south. More importantly, control of Nigeria's oil resources in the Niger Delta often get inserted into the agitation for self-determination or secession either by groups within the Niger Delta or those outside of the region (Adunbi, 2017).

Leaders of the oil-rich Niger Delta once warned that the government's delay in holding talks to address the challenges of the region made them doubt the sincerity of its desire to solve the region's problems. At a meeting which brought together leaders under the platform Pan Niger Delta Forum, a body that represented the region in the peace talks with the federal government, members urged the government to show concern over the growing impatience of Niger Delta residents at the long-term failure to find a lasting solution to the lingering crises (<http://www.dw.com/en/niger-delta-nigerias-oil-rich-powder-keg/a-37134909>).

Conclusion

While the IPOB's activities lasted, government's disregard for the rebellious inclinations of the group would have brought a calculated catastrophe to the Nigerian state. According to Salkida and Edwin (2015), the Hutu power radio that heralded the 1994 Rwandan genocide should be a relevant example of what could result if such hate is left unchecked not only by Kanu, but championed by different groups across Nigeria. In 1994, a radio station, Radio Télévision Libre des Mille Collines (RTLNC) orchestrated a genocide that stunned the world. Established in 1993, RTLNC appealed to the murderous sentiments of many young people who formed the core of the militia responsible for the death of over 500,000 Rwandans during the genocide that lasted from April to July, 1994.



As pointed out in this paper, the United Nations under its Declaration of Rights of Indigenous People provided citizens of member states with the right to self-determination. Self-determination is a rule of customary international law that has matured into a rule of *jus cogens*. A state cannot invoke its domestic law to defeat its international obligation regarding self-determination. However, that right is not absolute as it comes with some conditions. One of those conditions is that any region that wants to enforce the provisions of the declaration must be able to prove that it is a victim of continuous persecution and established discrimination by the present state. Though the political unity and territorial integrity of the Nigerian Federation remains non-negotiable, Unini (2016) contends that its internal political arrangement allows for dialogue to resolve disputes. Interest groups are encouraged to present legitimate and reliable demands and to enter into negotiation on the basis of such demands.

Although limiting the means of dissemination and punishing the speaker are important ways of curbing dangerous speech, alone this does little to address the underlying grievances that ensure its popularity. Empowering the audience to be immune so this kind of speech does not spark a chord of recognition is critical (Nagarajan, 2015). When the modus operandi of IPOB is considered against the backdrop of the pedigree of other terrorist groups operating internationally or in foreign jurisdictions, the government's labelling of the group as terrorist beggars belief. The attempt for Biafra secession from Nigeria in 1967 was not the first of its kind in Nigeria. The secession attempt itself was the culmination of the various contradictions within the Nigerian state. Various constitutions had been negotiated and adopted prior to 1966, but none addressed the fundamental social differences, political tensions, economic competition and ethnic imbalances that the Nigerian state had struggled with since amalgamation.



References

- Adetula, V. (2015), Ethnic Agitation in Nigeria, *NAI Newsletter*, 30 November. <http://www.nai.uu.se/news/articles/2015/11/30/140122/index.xml>. Accessed 17 March, 2018.
- Adunbi, Omolade (2017) Biafra as focal point for fresh perspectives of Nigeria, Available at: <https://africasacountry.com/2017/06/biafra-as-the-focal-point-for-fresh-perspectives-of-nigeria/>
- Agbu, O. (2002), Ethnic Militias and the Threat to Democracy in Post-Transition Nigeria, *News from the Nordic Africa Institute*, Uppsala, Sweden, No.1, January.
- Akande, Segun (2017) From Peckham to Umuahia: How Nnamdi Kanu used propaganda to become the new face of Biafra, Available at: <http://www.pulse.ng/news/local/how-nnamdi-kanu-became-the-new-face-of-biafra-id6839573.html>
- Ake, C. (1985), The Nigeria State: Antinomies of a Peripheral Formation, in C. Ake, ed., *Political Economy of Nigeria*, (Lagos: Longman).
- Alumona, I.M., Azom, S.N. & Iloh, E.C. (n.d), The Nigerian State and the Resurgence of Separatist Agitations: The Case of Biafra, www.afriheritage.org/images/ResearchWorkingPapers/The-Case-of-biafra.pdf. Accessed 17 March, 2018.
- American Heritage dictionary of the English language (1992). New York: Houghton Mifflin.
- Amnesty International (2016), "Nigeria: Killing of Unarmed pro-Biafra Supporters by Military must be Urgently Investigated," 10 June 2016,
- Awofeso, O. (2017). Secessionist movements and the national question in Nigeria: A revisit to the quest for political restructuring. *Journal of Social Science and Humanities Research*, 2(7),pp. 35-55.
- Callamard, A. (2015), Freedom of Expression and National Security: Balancing for Protection, *Columbia Global Freedom of Expression*, Columbia University.
- Chikwendu Rees (2017) Theorizing Nnamdi Kanu, Available at: <http://www.opinionnigeria.com/theorizing-nnamdi-kanu-by-rees-chikwendu/#sthash.3ZeFS6MV.dpbs>



- Coliver, S. (1999), *Secrecy and Liberty: National Security, Freedom of Expression and Access to Information*, The Hague: Martinus Nijhoff Pubs.
- Ezemenaka, K.E. & Prouza, J. (2016), Biafra resurgence: State failure, insecurity and separatist agitations in Nigeria. *Central European Journal of International and Security Studies*, 10(3), 88-109.
- Federal Republic of Nigeria (1999), *The Constitution of the Federal Republic of Nigeria*, Lagos: Federal Government Press.
- Federal Republic of Nigeria (2005), *Criminal Code Act C39: Laws of the Federal Republic of Nigeria*, <http://www.lawyard.ng/wp-content/uploads/2015/11/CRIMINAL-CODE-ACT-2004.pdf>.
- Ibeanu, O. (2015), Resolving the Igbo Non-Question: Pitfalls of Jibo's Single Strand Ethnic Narrative, *Premium Times*, 5 December.
- Ibeanu, O., Orji, N., & Iwuamadi, C.K. (2016). *Biafra separatism: Causes, consequences and remedies*. Enugu: Institute for Innovations in Development.
- Jibrin, I. (2015), Resolving the Igbo Question, *Premium Times*, 30 November 2015
- Kirshner A (2014), *A Theory of Militant Democracy: The Ethics of Combatting Political Extremism*. New Haven, CT: Yale University Press.
- Krasner, S. (1999). *Sovereignty: Organized Hypocrisy*. Princeton: Princeton University Press.
- Macklem, P. (2006), Militant Democracy, Legal Pluralism, and the Paradox of Self-Determination, *Int'l J Con Law*, Vol 4, No 3, pp. 488–516.
- Mendel, T. (n.d.). Restricting freedom of expression: Standards and principles. Background Paper for Meetings hosted by the UN Special Rapporteur on Freedom of Opinion and Expression. Centre for Law and Democracy. Retrieved from <http://www.law-democracy.org/wp-content/uploads/2010/07/10.03.Paper-on-Restrictions-on-FOE.pdf>
- Mithaug, D. (1998). Your right, my obligation? *Journal of the Association for Persons with Severe Handicaps*, 23, 41-43.



- Nagarajan, Chitra (2015) Radio Biafra: Why Dangerous Speech Can Be a Catalyst for Violence, Available at: <http://venturesafrica.com/radio-biafra-why-dangerous-speech-can-be-a-catalyst-for-violence/>
- Nonso, R.A. (2015), Biafran Self-Determination and Radio Biafra: Legal Issues Arising (1), *Premium Times*, November 10.
- Nwakanma, Chido (2017) How communication failure is heating up Nigeria over Biafra, Available at: <https://www.thecable.ng/communication-failure-heating-nigeria-biafra>
- Obasi Nnamdi (2015) Nigeria's Biafran Separatist Upsurge, Available at: <http://blog.crisisgroup.org/africa/nigeria/2015/12/04/nigerias-biafran-separatist-uptsurge/>
- Odufowokan, Dare (2015) Biafra: The facts, fiction and driving forces, *The Nation*, November 15
- Ogunlesi, Tolu (2015) What Nigeria needs to do now to manage the fallout from a new Biafra uprising, Retrieved on January 5, 2016 from: <https://qz.com/579632/what-nigeria-needs-to-do-now-to-manage-the-fallout-from-a-new-biafra-uprising/>
- Oladeji I.O. (2017), Nationalism and Nationalist Agitations in Africa: the Nigerian Trajectory. A *PhD Seminar paper* presented at the Department of Political Science, Ekiti State University, Ado-Ekiti, Ekiti State, Nigeria.
- Oladeji, I. O. (2012), Locality, Indigeneity and Citizenship Struggle in Nigeria, *an unpolished MSc Dissertation submitted to the Department of Political Science*, University of Ibadan.
- Omaka, Arua Oko (2017) Conquering the Home Front: Radio Biafra in the Nigeria–Biafra War, 1967–1970, Available at: <http://journals.sagepub.com/doi/pdf/10.1177/0968344516682056>
- Onuoha, G. (2011), Contesting the Space: Te 'New Biafra' and Ethno-Territorial Separatism in South-Eastern Nigeria, *Nationalism and Ethnic Politics*, 17(4): pp. 402-422.
- Pavkovic, A. & Radan, P. (2011). *The Ashgate Research Companion to Secession*. Ashgate Publishing Ltd.
- Salkida Ahmad and Edwin, Johnson Chinedu (2015) Radio Biafra: A Stitch In Time, *Sahara Reporters*, June 29



Shehadi, K.S. (1993), *Ethnic Self-Determination and the Break-up of States*, ADELPHI papers 283, IISI, December.

The Nigerian Expression (2017) Extra Report: Still On IPOB and Hate Speech, September 20

UN General Assembly Resolution 2200 A (XXI), 16 December 1966, entered into force 23 March 1976.

Unini, Chioma (2016) Neo-Biafra Agitation, Nigeria's Territorial Integrity and the Right of Self Determination in International Law, Available at: <http://thenigerialawyer.com/neo-biafra-agitation-nigerias-territorial-integrity-and-the-right-of-self-determination-in-international-law/>

Vickers, M. (2000), *Ethnicity and Sub-Nationalism in Nigeria: Movement for a Mid-West State*. Oxford: Worldview Publishers.